



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Excel Environmental

File: B-242577

Date: January 28, 1991

Gary C. Hoffman, Esq., for the protester.
Catherine M. Evans, Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that agency improperly allowed awardee to correct alleged mistake in bid is dismissed for lack of diligent pursuit where protester waited at least 3 months for decision on agency-level protest before filing protest at General Accounting Office.

DECISION

Excel Environmental protests the award of a contract to North American Construction Company under invitation for bids (IFB) No. GS-09P-90-KTC-0123, issued by the General Services Administration (GSA). Excel contends that the awardee improperly was permitted to correct a mistake in its bid.

We dismiss the protest.

Excel initially filed an agency-level protest against GSA's decision to allow North American to correct its bid, and waited 90 days for a GSA response before proceeding with this protest to our Office.

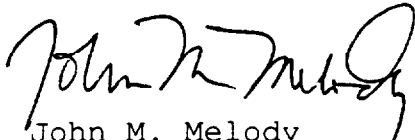
Excel states that it waited 90 days for an agency response because the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3554(a)(1) (1988), requires our Office to issue protest decisions within 90 working days from the date a protest is filed, and it "presumed" a similar period would apply to agency protests.

A protester has an affirmative obligation to diligently pursue the information that forms the basis of its protest. Illumination Control Sys., B-237196, Dec. 12, 1989, 89-2 CPD ¶ 546. A protester may not delay filing a protest with our Office until it eventually receives a decision from the contracting agency. Rather, a protester may wait only a reasonable length of time for a contracting agency's response

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before filing a protest here. Sterling Env'tl. Servs., Inc., B-234798, May 12, 1989, 89-1 CPD ¶ 455. Waiting 3 months to file a protest in our Office after filing an initial protest with the agency is not reasonable. Id.; Sacramento Metro. Officials Ass'n, B-230563, Mar. 16, 1988, 88-1 CPD ¶ 274. Excel's reliance on CICA does not excuse its delay; Excel's presumption to the contrary notwithstanding, the 90 day CICA requirement by its plain terms clearly applies only to protests filed in our Office. We conclude that Excel failed to diligently pursue its protest.

The protest is dismissed.



John M. Melody
Assistant General Counsel